

Hon. Ronald B. Leighton

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DONALD LEE HOSKIN and BLANCHE  
JANE HOSKIN, a married couple,

Plaintiffs,

vs.

PIERCE COUNTY DEPUTY SHERIFF  
ROBERT LARSEN, personally and in his  
official capacity, et al.,

Defendants.

NO. C06-5559 RBL

PIERCE COUNTY DEFENDANTS'  
TRIAL BRIEF

The court has been fully briefed as to the facts and procedural history of this matter through the summary judgment proceedings. Needless to say, there is a factual dispute as to the events which occurred on the Plaintiffs' property on January 22, 2004. In order for the jury to get a complete and accurate picture of what happened that day, the Defendants should be allowed to share with the jury certain records which were kept by the Washington State Department of Corrections (DOC). These records provided background information to the corrections officers which, along with their own experiences with Corey Hoskin and his parents, directly affected their planning and execution of their activities on that day.

1                   Exhibit 89

2                   This document (Exhibit 23 to Defendants' motion for summary judgment) is an  
3 official State Department of Corrections form, dated March 5, 2002, less than two years  
4 before this incident. It contains conditions and requirements for a probationer, including an  
5 agreement that Corey was subject to search and seizure of his person or residence by DOC  
6 personnel. Corey lists his parents' address on this form. This form is therefore centrally  
7 relevant to this case because it provides a legal basis for the officers to be on the property and  
8 it is one of many pieces of evidence that Corey listed his parents' address as his residence. It  
9 is also significant because it lists his grandmother's address, not as his residence, but as a  
10 "nearest relative not living with you." This is directly contrary to Plaintiffs' contention that  
11 the grandmother's residence was Corey's listed address.  
12

13                   Whether the Pierce County Deputies knew about the content or existence of this form  
14 is irrelevant since they were working in a back up/security function. Under the fellow officer  
15 rule in this state, the Deputies are entitled to rely on the knowledge of the DOC Officers.  
16 Washington has long accepted findings of probable cause under the "fellow officer rule."  
17 Under this rule, "in those circumstances where police officers are acting together as a unit,  
18 cumulative knowledge of all the officers involved in the arrest may be considered in deciding  
19 whether there was probable cause to apprehend a particular suspect." *State v. Maesse*, 29 Wn.  
20 App. 642, 647, 629 P.2d 1349 (1981). "[C]ooperation between investigating officers or an  
21 arrest directive made by an officer possessing probable cause is sufficient to justify an arrest  
22 by an officer lacking knowledge of the facts which form the basis of probable cause." *State v.*  
23 *Alvarado*, 56 Wn. App. 454, 456-57, 783 P.2d 1106 (1989). (See also, *State v. White*, 76 Wn.  
24 App. 801; 888 P.2d 169 (1995), *review denied*, 96 Wn.2d 1009 (1981), rule "permits probable  
25

1 cause to be determined upon the information possessed by the police as a whole when they  
2 are acting in concert"). The fellow officer rule applies also to searches. The officers are  
3 entitled to rely on the collective knowledge of all of the officers involved in the criminal  
4 investigation, although, all of the information known to the involved law enforcement officers  
5 is not communicated to the officer who actually undertakes the search. *U.S. v. Ramirez*, 473 F.  
6 3d 1026, 1032 (2007) U.S. App. Lexis 869 quoting *U.S. v. Sutton*, 794 F.2d 1415, 1426 (9th  
7 Cir. 1986). This doctrine has been applied "regardless of whether any information giving rise  
8 to probable cause was actually communicated" to the officer conducting the search. *U.S. v.*  
9 *Bertrand*, 926 F.2d 838, 844 (9th Cir. 1991). The missing pieces of information are imputed  
10 to the officer, "so long as he was working with the other officers, even though they were not  
11 communicated." *U.S. V. Bernard*, 623 F.2d, 581, 560-61 (9th Cir. 1980).

12  
13 The fellow officer rule "focuses on shared knowledge of police as a unit rather than  
14 merely on the knowledge of the officer who acts. The doctrine therefore permits a police  
15 officer to act if the officer reasonably relies on instructions from an officer who has probable  
16 cause." *State v. Soldahl*, 331 Ore. 420, 15 P.3d 564 (2000).

17  
18 The Pierce County Deputies were present solely to assist DOC Officers. Because  
19 DOC Officers and the Deputies were working as a collective unit, the knowledge of the DOC  
20 Officers can be imputed to the Deputies. Therefore, the Deputies did not need direct  
21 knowledge of the documents which showed Corey's listed residence to participate in the  
22 lawful search.

23 Exhibit 90

24 This document (Exhibit 24 to Defendants' motion for summary judgment) is very  
25 similar to Exhibit 60, but this one is dated May 28, 2002, approximately one and one-half

1 years before this incident. This form likewise acknowledges the right of DOC to search  
2 Corey at his residence, which again on this form is listed as his parents' address, not his  
3 grandmother's. The relevance of this document is the same as Exhibit 89.

4 Exhibit 91

5 This document (Exhibit 25 to Defendants' motion for summary judgment), is another  
6 DOC form. This one is entitled "Order of Release" and is dated November 12, 2002, and  
7 December 12, 2002, just over one year before this incident. This form apparently releases  
8 Corey from custody and requires him to report to a Community Corrections Officer. This  
9 form not only lists Corey's parents' address as his "release address," but lists his parents by  
10 name "Don and Jane Hoskin - Parents" under the heading "Emergency Contacts," and they are  
11 listed at the same address as Corey's release address. This form of course is likewise relevant  
12 as to establishing the listed residence address for Corey, which forms the basis for the DOC  
13 Officers' lawful entry onto the property and lawful search of the residence for Corey.  
14

15 Exhibit 92

16 This document (Exhibit 26 to Defendants' motion for summary judgment), is yet  
17 another DOC release document dated April 17, 2003, just nine months prior to this incident.  
18 Once again Corey signed this document and listed his parents' address as his release address.  
19

20 Exhibit 93

21 This document (Exhibit 27 to Defendants' motion for summary judgment), is a DOC  
22 report dated May 14, 2003, just eight months prior to this incident, wherein Corey ran from  
23 DOC officers Polly Holton and Daina Ager. These are the same two officers who were  
24 involved in this incident. The report further lists Corey's "last known address" as his parents'  
25 residence address. This record is doubly relevant as it becomes yet another piece of evidence

1 which confirms that according to DOC records, Corey's residence address was his parents'  
2 address. It further shows the DOC Officers' experience with Corey. His propensity to run  
3 from the Corrections Officers just a few months prior to this incident, helps to explain the  
4 precautions taken by the Corrections Officers at the time of this incident.

5 Exhibit 94

6 This document (Exhibit 28 to Defendants' motion for summary judgment), is a DOC  
7 report dated May 27, 2003, less than eight months prior to this incident. It lists Corey's last  
8 known address as his parent's residence and indicates that he has violated the conditions of his  
9 supervision, in part, by failing to participate in substance abuse treatment. The document also  
10 contains a CCO Officer's recommendation that Corey's DOSA sentence be revoked because  
11 he has shown no initiative to comply with his conditions. Yet, another reason for Corrections  
12 Officers to take precautionary measures when approaching Corey's last known address.

13 Exhibit 95

14 This document (Exhibit 29 to Defendants' motion for summary judgment), is a  
15 Declaration for the Determination of Probable Cause dated May 12, 2003, less than eight  
16 months prior to this incident. It states that Corey committed the crime of Possession of Stolen  
17 Property in the first Degree and describes how he and another defendant fled on foot after  
18 authorities arrived.

19 Exhibit 96

20 This document (Exhibit 30 to Defendants' motion for summary judgment), is a  
21 Certificate of Probable Cause dated March 6, 2002, less than two years prior to this incident.  
22 It states that Corey was driving a car when police pulled him over. Corey took off as police  
23 approached the car and led them on a high-speed chase.  
24  
25

1           Exhibit 97

2           This document is a Kent Police Department Authorization to Impound or Tow dated  
3 April 13, 2001, less than three years prior to this incident. Corey is listed as the registered  
4 owner of the vehicle and the residence listed is that of his parents.  
5

6           Exhibit 98

7           This document is a City of Kent Police Suspect/Arrest Report dated April 13, 2001,  
8 less than three years prior to this incident. Corey lists his residence as that of his parents.  
9

9           Exhibit 99

10          This document is a Vehicle Report Form dated April 13, 2001, less than three years  
11 prior to this incident. In the document, Corey's residence is listed as that of his parents.  
12

12          Exhibit 100

13          This document is an Order of Suspension from the State of Washington Department of  
14 Licensing (DOL) dated January 17, 2003, just over one year prior to this incident. The letter  
15 is addressed to Corey at his parents' residence.  
16

16          Exhibit 101

17          This document is a letter from the State of Washington DOL dated January 15, 2003,  
18 just one year prior to this incident. The letter is addressed to Corey at his parents' residence.  
19

20          Exhibit 102

21          This document is a letter from the Washington State DOC dated February 2, 2003, less  
22 than one year prior to this incident. The letter lists Corey's address as that of this parents'.  
23

23          Exhibit 103

24          This document is mail from the State of Washington DOC, Tacoma Office. The  
25 envelope is addressed to Corey at his parents' address.

Exhibit 104

This document is mail from the State of Washington DOC, Lakewood office. The envelope is addressed to Corey at his parents' address.

As the Community Corrections Officers testified in their depositions, there was conflicting evidence as to which house was Corey's place of residence – his parents' home or his grandmother's home. (When asked if the grandmother's house was Corey's "listed address," Corrections Officer Daina Ager testified: "Not necessarily. That was an issue. There was some confusion with the address." See, Deposition of Daina Ager, at page 63, lines 18-20.) This is a critical fact which a jury is entitled to review inasmuch as it gives all the Officers involved a legal basis for being on that property and searching for Corey.

Therefore these documents are relevant and should be admitted into evidence.

DATED this 14th day of May, 2008.

s/ RONALD L. WILLIAMS

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**CERTIFICATE OF SERVICE**

On May 14, 2008, 2008, I hereby certify that I electronically filed the foregoing PIERCE COUNTY DEFENDANTS' TRIAL BRIEF with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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